



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,800	12/02/2003	Jan Steenkamp	5782P028	4122
7590 11/05/2009				
Andre L. Marais				
Schwegman, Lundberg, Woessner & Kluth, P.A.				
1600 TCF Tower				
121 South Eighth Street				
Minneapolis, MN 55402				
EXAMINER				
CHAE, KYU				
ART UNIT		PAPER NUMBER		
2426				
MAIL DATE		DELIVERY MODE		
11/05/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/726,800

Applicant(s)

STEENKAMP ET AL.

Examiner

KYU CHAE

Art Unit

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9-13 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-13 and 16-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The Office Action is in response to an AMENDMENT entered 8/05/2009 for the patent applicant 10/726800 filed 12/2/2003.
2. The Office Action of 3/5/2009 is fully incorporated into this Office Action by reference.
3. Claims 7, 8, 14, and 15 are cancelled. Claims 22-25 have been added. Claims 1-6, 9-13 and 16-25 are pending.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-6, 9, 10, 13, 16-18 and 20-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,139,983 B2 to *Kelts* in view of U.S. Pub. No. 2003/0028889 A1 to *McCoskey*.

As to **claims 1, 16, 17 and 21**, *Kelts* discloses a method to provide digital content to a content destination, the method comprising:

providing a plurality of content provider identifiers to the content destination for display on an a display device, wherein each of the plurality of content provider identifiers is associated with one of a plurality of content

providers (*Kelts* Fig. 1 col. 4, ll. 1-6 & col. 19, ll. 1-4, navigational interface featuring a set of symbols or icons representing service providers and broadcasting networks);

monitoring user selection of one of the plurality of content provider identifiers (*Kelts* col. 22, ll. 7-11, presentation layer and navigation interface display within an end user's control can be monitored indirectly by a web browser application);

communicating at least one available content identifier to the content destination in response to the user selection of the one of the plurality of content provider identifiers, the at least one available content identifier being associated with the one of the plurality of content provider identifiers selected by a user (*Kelts* Fig. 1, col. 4, ll. 1-6, col. 10, ll. 27-32. e.g. user can highlight a content provider identifier and a select button to view this channel); and

selectively communicating digital content associated with the at least one available content identifier to the content destination (*Kelts* col. 27, ll. 31-38, ll. 47-51, filtering based on whether the associated content is available as part of the user's subscription package), wherein the plurality of content provider identifiers are included in a communication between the content distributor and the content destination (Fig. 8, col. 25, ll. 40-46, col. 26, ll. 52-57).

Kelts does not expressly disclose communicating digital content associated with the at least one available content identifier to the content destination independently of a content distributor.

McCoskey discloses communicating digital content associated with the at least one available content identifier to the content destination independently of a content distributor (*McCoskey* Fig. 2-4, pg. 4, ¶0050, 0054, 0065, 0070 & 0085).

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to modify *Kelts* by communicating digital content associated with the at least one available content identifier to the content destination independently of a content distributor as disclosed by *McCoskey*. The suggestion/motivation would have been in order to provide the user content that is available only from a remote content server allowing more content to be searched by the user (*McCoskey* Fig. 2-4, pg. 4, ¶0050, 0054, 0065, 0070 & 0085).

As to **claim 2**, *Kelts* further discloses wherein each of the plurality of content provider identifiers is associated with a plurality of available content identifiers arranged in a hierarchical fashion (*Kelts* Fig. 1 col. 12, ll. 1-7 & col. 13, ll. 5-8).

As to **claim 3**, *Kelts* further discloses wherein a first available content identifier relates to a first digital content that is selectively rendered to the content destination upon selection of the first available content identifier (*Kelts* Fig. 1 col. 4, ll. 1-6, col. 10, ll. 27-32 & col. 16, ll. 51-59).

As to **claim 4**, *Kelts* further discloses wherein the first available content identifier relates to a group of digital content, the group including a second available content identifier that identifies a second digital content that is available

for communication to a media terminal upon selection of the second available content identifier (*Kelts* Fig. 2, col. 12, ll. 22-30, ll. 64 - col. 13, ll. 5, level of magnification increases the level of detail on the navigation element e.g. zooming allows the display of lower order subcategories)

As to **claim 5**, *Kelts* further discloses wherein a first content provider identifier has an associated link that links the content destination to a first content provider upon selection of the first content provider identifier, the first content provider providing the at least one available content identifier to the user (*Kelts* Fig. 1, col. 10, ll. 27-32).

As to **claims 6 and 20**, *Kelts* further discloses wherein the content destination communicates a HyperText Markup Language (HTML) request associated with the at least one available content identifier (*Kelts* col. 26, ll. 52-57 & col. 26, ll. 67 - col. 27, ll. 4).

As to **claim 9**, *Kelts* further discloses wherein each of the plurality of content provider identifiers are icons that visually identify an associated content provider (*Kelts* Fig. 1, col. 4, ll. 1-6).

As to **claim 10**, *Kelts* further discloses selectively communicating the digital content associated with the at least one available content identifier via a cable head-end of a cable network to the content destination (*Kelts* Fig. 8, col. 25, ll. 40-52).

As to **claim 13**, *Kelts* further discloses communicating the user selection of the one of the plurality of content provider identifiers to a digital rights network (*Kelts* Fig. 6, col. 19, ll. 57-59, security information).

As to **claim 18**, *Kelts* further discloses wherein the plurality of digital content providers communicate the digital content via the content distribution network to a cable head-end in response to the user selection of the one of the plurality of content provider identifiers (*Kelts* Fig. 8, col. 26, ll. 28-41).

As to **claim 22**, *Kelts* discloses a method to receive digital content at a content destination, the method comprising:

receiving at least one content provider identifier (*Kelts* Fig. 1, col. 9, ll. 34-44);

displaying the at least one content provider identifier on a display device at the content destination, wherein each of the at least one content provider identifier is associated with a content provider (*Kelts* Fig. 1 col. 4, ll. 1-6 & col. 19, ll. 1-4, navigational interface featuring a set of symbols or icons representing service providers and broadcasting networks);

transmitting a user selection of the at least one content provider identifier to a content distribution network (*Kelts* col. 22, ll. 7-11, presentation layer and navigation interface display within an end user's control can be monitored indirectly by a web browser application);

receiving at least one available content identifier at the content destination in a message from a content distributor in response to the user selection of the at

least one content provider identifier, the at least one available content identifier being associated with the at least one content provider identifier (*Kelts* Fig. 1, col. 4, ll. 1-6, col. 10, ll. 27-32. e.g. user can highlight a content provider identifier and a select button to view this channel);

Kelts does not expressly disclose providing authentication information from the content destination to the content distribution network; and receiving the digital content associated with the at least one available content identifier at the content destination from the content distribution network independently of the content distributor.

McCoskey discloses providing authentication information from the content destination to the content distribution network (*McCoskey* Fig. 9, pg. 7, ¶0074); and receiving the digital content associated with the at least one available content identifier at the content destination from the content distribution network independently of the content distributor. (*McCoskey* Fig. 2-4, pg. 4, ¶¶0050, 0054, 0065, 0070 & 0085).

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to modify *Kelts* by providing authentication information and communicating digital content associated with the at least one available content identifier to the content destination independently of a content distributor as disclosed by *McCoskey*. The suggestion/motivation would have been in order to provide the user content that is available only from a remote content server allowing more content to be searched by the user and to implement a digital

rights management scheme (*McCoskey* Fig. 2-4, pg. 4, ¶¶0050, 0054, 0065, 0070, 0074 & 0085).

As to **claim 23**, *Kelts* further discloses receiving a digital content stream at the content destination, the digital content stream including the plurality of content provider identifiers corresponding to the digital content (*Kelts* Fig. 1, col. 4, ll. 1-6, col. 10, ll. 27-32).

As to **claim 24**, *Kelts* discloses a media terminal, comprising:

a display device to display at least one content provider identifier associated with a content provider, wherein the at least one available content identifier is received at the media terminal in a message from a content distributor (*Kelts* Fig. 1 col. 4, ll. 1-6 & col. 19, ll. 1-4, navigational interface featuring a set of symbols or icons representing service providers and broadcasting networks)

Kelts does not expressly disclose a digital rights client to initiate a secure session with a digital rights agent and provide authentication information for the media terminal to the content distribution network; and a secure device to receive a license from the digital rights agent, transmit a user selection of the at least one content provider identifier to a content distribution, and receive digital content associated with the at least one available content identifier from the content distribution network independently of a media terminal.

McCoskey discloses a digital rights client to initiate a secure session with a digital rights agent (*McCoskey* Fig. 9, pg. 3, ¶¶0045 & 0074) and provide

authentication information for the media terminal to the content distribution network (*McCoskey* Fig. 9, pg. 7, ¶0074); and a secure device to receive a license from the digital rights agent, transmit a user selection of the at least one content provider identifier to a content distribution network (*McCoskey* Fig. 9, pg. 7, ¶0074 & 0087), and receive digital content associated with the at least one available content identifier from the content distribution network independently of a media terminal (*McCoskey* Fig. 2-4, pg. 4, ¶0050, 0054, 0065, 0070 & 0085).

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to modify *Kelts* by providing authentication information and communicating digital content associated with the at least one available content identifier to the content destination independently of a content distributor as disclosed by *McCoskey*. The suggestion/motivation would have been in order to provide the user content that is available only from a remote content server allowing more content to be searched by the user and to implement a digital rights management scheme (*McCoskey* Fig. 2-4, pg. 4, ¶0050, 0054, 0065, 0070, 0074 & 0085).

As to **claim 25**, *Kelts* does not expressly disclose wherein the media terminal is further to receive the digital content independently of the content distributor.

McCoskey discloses wherein the media terminal is further to receive the digital content independently of the content distributor (*McCoskey* Fig. 2-4, pg. 4, ¶0050, 0054, 0065, 0070 & 0085).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify *Kelts* by receiving the digital content independently of the content distributor as disclosed by *McCoskey*. The suggestion/motivation would have been in order to provide the user content that is available only from a remote content server allowing more content to be searched by the user (*McCoskey* Fig. 2-4, pg. 4, ¶¶0050, 0054, 0065, 0070 & 0085).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 11, 12 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,139,983 B2 to *Kelts* in view U.S. Pub. No. 2003/0028889 A1 to *McCoskey* and in further view of U.S. Patent No. 6,184,878 B1 to *Alonso*.

As to **claims 11 and 19**, *Kelts* further discloses receiving the digital content via a content distribution network at the cable head-end, the digital content being communicated using a Transmission Control Protocol/Internet Protocol (TCP/IP) format (col. 19, ll. 25-31); and

Kelts and *McCoskey* do not expressly disclose converting the digital content from the TCP/IP format to a Motion Picture Experts Group (MPEG) format at the cable head-end.

Alonso discloses interactively accessing information from a computer network such as a TCP/IP network (*Alonso* Fig. 1 abstract) and converting digital content from the TCP/IP format to an MPEG format (*Alonso* Fig. 1, col. 3, ll. 19-23).

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to modify *Kelts* and *McCoskey* by converting digital content from the TCP/IP format to an MPEG format as disclosed by *Alonso*. The suggestion/motivation would have been in order to transmit the audiovisual program in MPEG format through the cable network (*Alonso* Fig. 1, col. 3, ll. 19-23 & ll. 33-36).

As to **claim 12**, *Kelts* and *McCoskey* do not expressly disclose wherein the converting is done on-the-fly.

Alonso discloses wherein the converting is done on-the-fly (*Alonso* Fig. 1 abstract, col. 3, ll. 19-23).

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to modify *Kelts* and *McCoskey* by converting on-the-fly as disclosed by *Alonso*. The suggestion/motivation would have been in order to transmit the audiovisual program in MPEG format through the cable network in a timely fashion (*Alonso* Fig. 1 abstract, col. 3, ll. 19-23).

Response to Arguments

8. Applicant's arguments with respect to claims 1-6, 9-13 and 16-25 have been considered but are moot in view of the new ground(s) of rejection.

Examination Considerations

9. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d, 1393, 1404-05, 162 USPQ 541,550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

10. Examiner's Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

11. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.
12. Examiner's Opinion: ¶¶ 9-11 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

13. Claims 1-6, 9-13 and 16-25 have been rejected.

Correspondence Information

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KYU CHAE whose telephone number is (571)270-5696. The examiner can normally be reached on Mon-Fri, 8 a.m. - 5 p.m.; EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HIRL can be reached on (571)272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. C./
Examiner, Art Unit 2426

/Joseph P. Hirl/
Supervisory Patent Examiner, Art Unit 2426
November 3, 2009